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November 3, 2010

Water Docket
Environmental Protection Agency
Mailcode: 28221T
1200 Pennsylvania Ave., NW
Washington, DC 20460

NOV 08 2010

RE: Chesapeake Bay TMDL

Southern States as well as our Virginia Cooperative members are committed to environmental stewardship. Clean water and good soil are fundamental to our businesses. We have been doing our part - and will continue to do so in order to help create a healthy Chesapeake Bay and local waters. Specifically:

- Agriculture has met 52% of reduction goals for Nitrogen and 50% for Phosphorus and Sediment—all through a voluntary, incentive based program in Virginia. This doesn't even count the actions farmers are taking on their own without funding.
- Southern States has also educated and trained certified crop advisors (CCA) to assist producers in providing only the "needed" nutrients for their crops. CCA's perform soil and tissue analysis again to be sure of the proper application of nutrients.
- According to the Virginia Department of Forestry, 83% of logging jobs use the proper combination of best management practices.
- University studies have shown that turfgrass, when maintained properly, serves as an excellent filter for stormwater runoff, can be a carbon sink, and captures sediment.

We have been willing partners in making environmental progress—and have proven it with our actions, time and time again.

- Virginia has put over \$80 million into Agricultural Best Management Practice (Ag BMP) Cost-Share program since 2006. Farmers have matched this spending with \$0.60 of every dollar, and are lined up at the door to do more. Annually, willing participants are turned away due to lack of adequate funds at the state and federal level.
- Even without cost-share funding, agriculture is taking action. Virginia farmers fence cattle from streams, practice conservation tillage, use proper nutrient management practices, and install buffers along waterways - without federal or state funds - and without being "counted" by EPA.
- Without regulatory pressure, the turfgrass/green industry requested that the state create an Urban Nutrient Management Program so that their professionals can have plans specifically tailored for their businesses.
- Lawncare operators have supported and signed Voluntary Water Quality Agreements with the state. Major home lawn fertilizer companies have signed agreements to reduce and/or eliminate phosphorus from maintenance fertilizers by 2012.
- Virginia's golf industry is developing a Best Management Handbook covering water quality, pesticide use, and water supply issues for their industry to implement.

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Bay Model Accuracy - Needs Revisions Prior to Costly EPA Mandates

The Chesapeake Bay Model, the basis for nutrient and sediment reductions required by EPA, has been shown to have extensive flaws in the data it utilizes. EPA even acknowledges this fact. EPA should not move ahead with costly mandates based upon flawed modeling and data. Examples:

- In 2010, Virginia Cooperative Extension conducted a field observation study in the Coastal Plain. They found that 90% of crop acres were planted in no-till. Only 15% of the acres are enrolled in DCR's no-till program.
- Is the model fully accounting for practices that are already mandated by state permitting programs? (ex: mortality control for poultry facilities)
- The model is currently "throwing out" actual, ground-truthed data from Virginia because it does not meet the "modeled" land use data. This is unfair when the practices are meeting all requirements set forth by EPA.

Federal actions must be based on accurate information. No additional regulations or penalties should be put on states or industries until the science and data have been proven.

Cost of Compliance and Current Economy

The Bay TMDL, which requires Virginia to develop a Watershed Implementation Plan (WIP), will have a high cost for compliance for all sectors. While we agree that there is a benefit of clean waters within the Bay and local watersheds, the economic costs for compliance must be balanced, and water quality programs cannot be developed in a vacuum without considering economic impacts to the economy.

Before moving forward with a finalized Bay TMDL, EPA must conduct a non-biased economic impact analysis. Experts from land-grant universities from across the watershed could be called upon to evaluate the actual costs of meeting water quality standards for businesses, citizens, localities, states, and the federal government.

Agriculture has the benefit of estimating some expenses based on existing data on cost of implementing AgBMPs through current state and federal programs.

- Virginia estimates that just one practice (cattle fencing) could cost more than \$800 million to implement. Fencing cattle from streams, putting in crossings, providing alternative watering, etc. costs on average \$30,000 for a Virginia cattle farmer.
- Virginia's Natural Resources Commitment Fund says Ag BMP cost-share funds will need to be \$63.2 million annually from 2025 in order to get 60% NPS reduction goals from agriculture. This is only costshare funding from the state - doesn't account for federal government's traditional share of funding or the money that comes from farmers.
- Current funding estimates are just based upon the cost of installing the practice, they do not account for costs like loss of productive land, replacing practices when weather damages occur, fluctuations in markets, etc.

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Economic conditions (lack of profits, increased input costs, additional credit not an option) means that extra money to meet regulations is non-existent.

Due to long-term devastating economic conditions for agriculture (like other sectors), federal backstops alone (mandatory permitting of small dairies, requiring some ag processing plants to do more) will be enough to drive some farmers out of business.

EPA's federal backstops requiring more unregulated lands to meet MS-4 (urban lands) requirements may cause significant economic hardship for urban landowners, including the green and turfgrass industries.

Cost share funding will be critical to meeting demands of EPA. Agriculture, lawn care, turfgrass, forestry, have all seen depressed profits, just as the State and local governments have been facing historic deficits. Individual businesses, farmers, and the State cannot meet this unfunded mandate from EPA without significant federal funding.

No to Federal Backstops

Virginia's Watershed Implementation Plan (WIP) reflects some practices for both agriculture and turfgrass that we strongly believe, given proper implementation and funding, will result in significant water quality improvements.

- Agricultural Resource Management or Conservation Plans to meet the individual conservation needs of each farm will result in progress without mandating a "one-size-fits-all approach".
- We support working with the turfgrass/green industry to make progress through utilizing nutrient management plans, amending the content of certain fertilizer products, and educating homeowners, while carefully balancing the costs and unintended consequences of under-managed or under-fertilized turfgrass.

EPA does not need to substitute its version of heavy-handed, government regulation if the state chooses to build off of the incentive-based practices and programs that have resulted in progress over the decades.

EPA's "backstop" measures put in the TMDL will certainly result in more costs for permitted facilities, such as large animal feeding operations, processing facilities, and urban landscapes.

We question the "reasonable assurance" offered by EPA's backstops, as current regulatory authority and details on new requirements are both unclear.

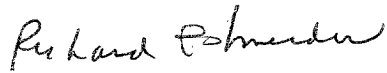
Instead of forcing states to regulate their way out of "backstops," we urge EPA to allow Virginia to implement its own plans for achieving clean water goals-without costly, burdensome regulations.

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Southern States has over 300,000 producer members. All members provide feed and fiber for the world. Farmers work hard to maintain their land and to pass family farms to sons and daughters. They are good stewards of the land.

We ask you to be respectful to our producers in meeting the goal we all want to achieve, a healthy Chesapeake Bay and local waters.

Sincerely,

A handwritten signature in cursive script that reads "Richard Schneider".

Richard Schneider, Director
Corporate Events, Member Relations & Public Affairs